

1 PHILLIP A. TALBERT
Acting United States Attorney
2 PETER K. THOMPSON, HISBN 5890
Acting Regional Chief Counsel, Region IX
3 Chief, Civil Division
DAVID PRIDDY, ILSBN 6313767
4 Special Assistant United States Attorney
5 Social Security Administration
160 Spear St., Suite 800
6 San Francisco, CA 94105
7 Telephone: (510) 970-4801
Facsimile: (415) 744-0134
8 Email: David.Priddy@ssa.gov

9 Attorneys for Defendant

10 UNITED STATES DISTRICT COURT
11 EASTERN DISTRICT OF CALIFORNIA
12 SACRAMENTO DIVISION
13

14 CHARLES BURKHOLDER,

15 Plaintiff,

16 v.

17 KILOLO KIJAKAZI, Acting
18 Commissioner of Social Security,

19 Defendant.
20

)
) Case No.: 2:21-cv-00424-WBS-DMC
)
) **STIPULATION FOR THE AWARD AND**
) **PAYMENT OF ATTORNEY FEES AND**
) **EXPENSES PURSUANT TO THE EQUAL**
) **ACCESS TO JUSTICE ACT, 28 U.S.C. §**
) **2412(d), AND COSTS PURSUANT TO**
) **28 U.S.C. § 1920**
)
)

21
22 This stipulation is intended to replace the MOTION for Attorney Fees Plaintiff filed on
23 June 13, 2022.

24
25 IT IS HEREBY STIPULATED by and between the parties through their undersigned
26 counsel, subject to the approval of the Court, that Plaintiff be awarded attorney fees and
27 expenses in the amount \$8,000.00 (EIGHT THOUSAND dollars) under the Equal Access to
28 Justice Act (EAJA), 28 U.S.C. § 2412(d), and costs in the amount of \$627.00 (SIX HUNDRED

1 TWENTY-SEVEN dollars) under 28 U.S.C. § 1920. This amount represents compensation for
2 all legal services rendered on behalf of Plaintiff by counsel in connection with this civil action,
3 in accordance with 28 U.S.C. §§ 1920; 2412(d).

4 After the Court issues an order for EAJA fees to Plaintiff, the government will consider
5 the matter of Plaintiff's assignment of EAJA fees to counsel, if any. Pursuant to *Astrue v.*
6 *Ratliff*, 560 U.S. 586, 598, 130 S.Ct. 2521, 177 L.Ed.2d 91 (2010), the ability to honor any
7 assignment will depend on whether the fees are subject to any offset allowed under the United
8 States Department of the Treasury's Offset Program. After the order for EAJA fees is entered,
9 the government will determine whether they are subject to any offset.

10 Fees shall be made payable to Plaintiff, but if the Department of the Treasury
11 determines that Plaintiff does not owe a federal debt, then the government shall cause the
12 payment of fees, expenses and costs to be made directly to counsel, pursuant to the assignment
13 executed by Plaintiff. Any payments made shall be delivered to counsel.

14 This stipulation constitutes a compromise settlement of Plaintiff's request for EAJA
15 attorney fees, and does not constitute an admission of liability on the part of Defendant under
16 the EAJA or otherwise. Payment of the agreed amount shall constitute a complete release
17 from, and bar to, any and all claims that Plaintiff and/or counsel including counsel's firm may
18 have relating to EAJA attorney fees in connection with this action.

19 This award is without prejudice to the rights of counsel and/or counsel's firm to seek
20 Social Security Act attorney fees under 42 U.S.C. § 406(b), subject to the savings clause
21 provisions of the EAJA.

22
23 Respectfully submitted,

24 Dated: June 23, 2022

CHERMOL AND FISHMAN LLC

25 By: /s/ Ashish A. Agrawal*

26 ASHISH A. AGRAWAL

* By email authorization on June 22, 2022

27 Attorneys for Plaintiff
28

1 Dated: June 23, 2022

PHILIP A. TALBERT
United States Attorney
PETER K. THOMPSON
Regional Chief Counsel, Region IX
Social Security Administration

4 By: /s/ David Priddy
5 DAVID PRIDDY
6 Special Assistant United States Attorney

7
8 **ORDER**

9 Based upon the parties' Stipulation for the Award and Payment of Attorney Fees and
10 Expenses Pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412(d), and Costs Pursuant
11 to 28 U.S.C. § 1920, IT IS ORDERED that fees and expenses in the amount of \$8,000.00 as
12 authorized by 28 U.S.C. § 2412(d), and costs in the amount of \$627.00 as authorized by 28
13 U.S.C. § 1920, be awarded subject to the terms of the Stipulation. Further, the Clerk of Court is
14 directed to designate the motion for attorney fees (ECF No. 20) as withdrawn.

15
16 Dated: June 27, 2022



17 DENNIS M. COTA
18 UNITED STATES MAGISTRATE JUDGE
19
20
21
22
23
24
25
26
27
28